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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/543,949	04/06/2000	Grover John Manderfield, Jr	P99,1996	7906

26263 7590 04/08/2004

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EXAMINER

ELOSHWAY, NIKI MARINA

ART UNIT	PAPER NUMBER
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3727

*20*

DATE MAILED: 04/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/543,949

Applicant(s)

MANDERFIELD, JR, GROVER  
JOHN

Examiner

Niki M. Eloshway

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-12, 14-19, 21-23, 31 and 33 is/are pending in the application.
- 4a) Of the above claim(s) 21-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-12, 14-19, 31 and 33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## DETAILED ACTION

### *Election/Restrictions*

1. Claims 21-23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 4.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 5-12, 14-17, 31 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beck et al. (U.S. 6,062,408) in view of Cheng (U.S. 5,549,210) and Kester (U.S. 6,129,803).

Beck et al. discloses the claimed invention except for the plurality of feet at the bottom of the container, except for the side wall being a smooth continuous curve and except for the diameter being larger than the height of the bowl. Cheng teaches that it is known to provide a container with a plurality of feet at the bottom (see figures 1-6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container of Beck et al. with the plurality of feet of Cheng, in order to strengthen the bottom wall of the container while providing a stable support structure.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container of Beck et al. with the side wall being a smooth continuous curve, as taught by Kester, in order to give the container a more decorative appearance.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container of Beck et al. with the diameter being larger than the height, in order to allow the container to be stored in areas with limited vertical space while maintaining the capacity of the container, and since a change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

The Beck et al. reference can resist deformation during a hot fill application, as set forth in col. 4 lines 21-38. The container is blow molded, as set forth in col. 3 lines 9-11.

4. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beck et al. (U.S. 6,062,408) in view of Cheng (U.S. 5,549,210) and Kester (U.S. 6,129,803), as applied to claim 1 above, and further in view of Valyi (U.S. 5,939,153). The modified container of Beck et al. discloses the claimed invention except for the container being multi-layered. Valyi teaches that it is known to make a container of plastic. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container of Beck et al. with the container being made of multi-layered plastic, as taught by Valyi, in order to increase the strength of the container.

#### ***Response to Arguments***

5. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

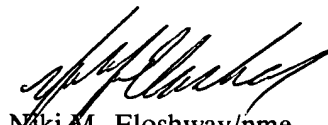
6. THIS ACTION IS NON-FINAL.

7. In order to reduce pendency and avoid potential delays, Technology Center 3700 is encouraging FAXing of responses to Office Actions directly to (703)872-9306. This practice may be used for filing

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papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a USPTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX will be promptly forwarded to the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niki M. Eloshway whose telephone number is (703) 308-1606. The examiner is in the office on Tuesdays and Fridays. Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Customer Service Office at (703) 306-5648.



Niki M. Eloshway/nme  
Patent Examiner  
April 2, 2004